

TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL1. TRANSMITTAL NUMBER:
TN 04-0042. STATE:
Ohio

FOR: CENTERS FOR MEDICAID AND MEDICAID SERVICES

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE
SOCIAL SECURITY ACT (MEDICAID) Title XIXTO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES4. PROPOSED EFFECTIVE DATE
May 12, 2004 MAY 20, 2004

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN ☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN ☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:
Section 1902 (a)(13)(A) of the Social Security Act

7. FEDERAL BUDGET IMPACT:

a. FFY 2004 (\$ 0)
b. FFY 2005 (\$ 0)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19D rules: 5101:3-3-44
5101:3-3-509. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):Attachment 4.19D rules: 5101:3-3-44
5101:3-3-50

10. SUBJECT OF AMENDMENT:

The rules contained in this amendment

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT
☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED
☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED:
The Governor's office has delegated review to
the Director of ODJFS.

12. SIGNATURE OF STATE AGENCY OFFICIAL:

13. TYPED NAME:

Thomas J. Hayes

14. TITLE:

Director

15. DATE SUBMITTED:

May 31, 2004

16. RETURN TO:

Becky Jackson
Bureau of Health Plan Policy
Ohio Department of Job and Family Services
30 East Broad Street, 27th floor
Columbus, Ohio 43215-3414

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17. DATE RECEIVED	18. DATE APPROVED
19. REVIEWER NAME	20. REVIEWER TITLE
21. REVIEWER NAME	22. REVIEWER TITLE
23. REMARKS	

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Method for establishing the direct care cost component of the prospective rate for nursing facilities (NFs).

- (A) The Ohio department of job and family services (ODJFS) shall pay each eligible NF a per resident per day rate for direct care costs established prospectively for each facility. ODJFS shall establish each facility's rate for direct care costs quarterly.
- (B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under paragraph (B)(2) of this rule, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, ODJFS shall:
 - (1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its annual facility average case-mix score determined under rule 5101:3-3-42 of the Administrative Code for that year.
 - (2) Set the maximum cost per case-mix unit for each peer group of NFs under paragraph (F) of this rule as illustrated in and appendices A and B of this rule as follows:
 - (a) For fiscal year beginning July 1, 1993 based upon calendar year 1992, set the maximum cost per case-mix unit for each peer group of NFs as follows:
 - (i) Calculate the cost per case-mix unit under paragraph (B)(1) of this rule for each NF; and
 - (ii) Determine each NF in which the cost per case-mix unit has been assigned pursuant to rule 5101:3-3-42 of the Administrative Code and any NF that serves residents who have outlier service needs and for which rates have been set pursuant to rule 5101:3-3-25 of the Administrative Code; and
 - (iii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(a)(i) of this rule for all NFs excluding the NFs determined under paragraph (B)(2)(a)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day; and
 - (iv) Array the cost per case-mix units from the calculation under paragraph (B)(2)(a)(i) of this rule for all NFs excluding the NFs

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determined under paragraph (B)(2)(a)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the eighty-fifth percentile medicaid day; and

- (v) Divide the eighty-fifth percentile cost per case-mix unit obtained under paragraph (B)(2)(a)(iv) of this rule by the median under paragraph (B)(2)(a)(iii) of this rule to obtain a percentage above the median for all NFs; and
 - (vi) Group the NFs for which the cost per case-mix unit is calculated under paragraph (B)(2)(a)(i) into each peer group under paragraph (F) of this rule; and
 - (vii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(a)(vi) of this rule for each peer group excluding the NFs determined under paragraph (B)(2)(a)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day for each peer group; and
 - (viii) Multiply the percentage obtained under paragraph (B)(2)(a)(v) of this rule by the median cost per case-mix unit obtained under paragraph (B)(2)(a)(vii) of this rule to obtain the maximum cost per case-mix unit for each peer group.
- (b) For fiscal year beginning July 1, 1994 based upon calendar year 1993 set the maximum cost per case-mix unit for each peer group of NFs as follows:
- (i) Calculate the cost per case-mix unit under paragraph (B)(1) of this rule for each NF; and
 - (ii) Determine each NF in which the cost per case-mix unit has been assigned pursuant to rule 5101:3-3-42 of the Administrative Code, any NF that participated in the medical assistance program under the same operator for less than twelve months during the calendar year 1993, and any NF that serves residents who have outlier service needs and for which rates have been set pursuant to rule 5101:3-3-25 of the Administrative Code; and
 - (iii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(b)(i) of this rule for all NFs excluding the NFs

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determined under paragraph (B)(2)(b)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day; and

- (iv) Array the cost per case-mix units from the calculation under paragraph (B)(2)(b)(i) of this rule for all NFs excluding the NFs determined under paragraph (B)(2)(b)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the eighty-fifth percentile medicaid day; and
 - (v) Divide the eighty-fifth percentile cost per case-mix unit obtained under paragraph (B)(2)(b)(iv) of this rule by the median under paragraph (B)(2)(b)(iii) of this rule to obtain a percentage above the median for all NFs; and
 - (vi) Group the facilities for which the cost per case-mix unit is calculated under paragraph (B)(2)(b)(i) of this rule into each peer group under paragraph (F) of this rule; and
 - (vii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(b)(vi) of this rule for each peer group excluding the NFs determined under paragraph (B)(2)(b)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day for each peer group; and
 - (viii) Multiply the percentage obtained under paragraph (B)(2)(b)(v) of this rule by the median cost per case-mix unit obtained under paragraph (B)(2)(b)(vii) of this rule to obtain the maximum cost per case-mix unit for each peer group.
- (c) For the first six months beginning July 1, 1995 based upon calendar year 1994, set the maximum cost per case-mix unit for each peer group of NFs as follows:
- (i) Calculate the cost per case-mix unit under paragraph (B)(1) of this rule for each NF; and
 - (ii) Determine each NF in which the cost per case-mix unit has been assigned pursuant to rule 5101:3-3-42 of the Administrative Code, any NF that participated in the medical assistance program under the same operator for less than twelve months during the

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calendar year 1994, and any NF that serves residents who have outlier service needs and for which rates have been set pursuant to rule 5101:3-3-25 of the Administrative Code; and

- (iii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(c)(i) of this rule for all NFs excluding the NFs determined under paragraph (B)(2)(c)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day; and
 - (iv) Array the cost per case-mix units from the calculation under paragraph (B)(2)(c)(i) of this rule for all NFs excluding the NFs determined under paragraph (B)(2)(c)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the eighty-fifth percentile medicaid day; and
 - (v) Divide the eighty-fifth percentile cost per case-mix unit obtained under paragraph (B)(2)(c)(iv) of this rule by the median under paragraph (B)(2)(c)(iii) of this rule to obtain a percentage above the median for all NFs; and
 - (vi) Group the facilities for which the cost per case-mix unit is calculated under paragraph (B)(2)(c)(i) into each peer group under paragraph (F) of this rule; and
 - (vii) Array the cost per case-mix units from the calculation under paragraph (B)(2)(c)(vi) of this rule for each peer group excluding the NFs determined under paragraph (B)(2)(c)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day for each peer group; and
 - (viii) Multiply the percentage obtained under paragraph (B)(2)(c)(v) of this rule by the median cost per case-mix unit obtained under paragraph (B)(2)(c)(vii) of this rule to obtain the maximum cost per case-mix unit for each peer group.
- (d) For the six-month period beginning January 1, 1996 through June 30, 1996 based upon calendar year 1994 and each fiscal year thereafter based upon the calendar year preceding the fiscal year in which the rate is paid, set the maximum cost per case-mix unit for each peer group of NFs as follows:

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- (i) Calculate the cost per case-mix unit under paragraph (B)(1) of this rule for each peer group under paragraph (F) of this rule from the calendar year preceding the fiscal year in which the rate is paid; and
 - (ii) Determine each NF in which the cost per case-mix unit has been assigned pursuant to rule 5101:3-3-42 of the Administrative Code, any NF that participated in the medical assistance program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid, and any NF that serves residents who have outlier service needs and for which rates have been set pursuant to rule 5101:3-3-25 of the Administrative Code; and
 - (iii) Group the facilities for which the cost per case-mix unit is calculated under paragraph (B)(2)(d)(i) into each peer group under paragraph (F) of this rule; and
 - (iv) Array the cost per case-mix units from the calculation under paragraph (B)(2)(d)(i) of this rule for each peer group excluding the NFs determined under paragraph (B)(2)(d)(ii) of this rule in ascending order for each facility and calculate the cost per case-mix unit which reflects the median medicaid day for each peer group; and
 - (v) Multiply the percentage above the median obtained under paragraph (B)(2)(a)(v) of this rule by the median cost per case-mix unit obtained under paragraph (B)(2)(d)(iv) of this rule to obtain the maximum cost per case-mix unit for each peer group.
- (e) ODJFS shall not recalculate a maximum cost per case-mix unit set under paragraph (B)(2) of this rule based on additional information that ODJFS receives after the maximum costs per case-mix unit are set. ODJFS shall recalculate a maximum cost per case-mix unit only if it made an error in computing the maximum cost per case-mix unit based on the information available at the time of the original calculation.
- (C) Each facility's rate for direct care costs shall be determined for each calendar quarter within a fiscal year by multiplying the lesser of the following by the quarterly facility average case-mix score determined under rule 5101:3-3-42 of the Administrative Code for the calendar quarter that preceded the immediately preceding calendar quarter:

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- (1) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under paragraph (B)(1) of this rule; or
- (2) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under paragraph (B)(2) of this rule as follows:
 - (a) For the fiscal year that begins on July 1, 1993, ODJFS shall pay a NF that has a cost per case-mix unit under paragraph (B)(1) of this rule that exceeds the maximum cost per case-mix unit under paragraph (B)(2)(a) of this rule a rate for direct care costs based on the sum of the following:
 - (i) The maximum cost per case-mix unit; and
 - (ii) Two-thirds of the difference between the NF's cost per case-mix unit and the maximum cost per case-mix unit.
 - (b) For the fiscal year that begins on July 1, 1994, ODJFS shall pay a NF that has a cost per case-mix unit under paragraph (B)(1) of this rule that exceeds the maximum cost per case-mix unit under paragraph (B)(2)(b) of this rule a rate for direct care costs based on the sum of the following:
 - (i) The maximum cost per case-mix unit; and
 - (ii) One-third of the difference between the NF's cost per case-mix unit and the maximum cost per case-mix unit.
 - (c) For the first six months beginning July 1, 1995, ODJFS shall pay a NF that has a cost per case-mix unit that exceeds the maximum cost per case-mix unit established under paragraph (B)(2)(c) of this rule, the maximum established under paragraph (B)(2)(c) of this rule.
 - (d) For the six-month period beginning January 1, 1996 through June 30, 1996 and each fiscal year thereafter, ODJFS shall pay a NF that has a cost per case-mix unit that exceeds the maximum cost per case-mix unit established under paragraph (B)(2)(d) of this rule, the maximum established under paragraph (B)(2)(d) of this rule.

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- (D) ODJFS shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated for the following fiscal year.
- (E) For purposes of adjusting the direct care rate for each facility, the product determined under paragraph (C) of this rule shall be adjusted by the inflation rate estimated under paragraph (D) of this rule.
- (F) Peer groups used to calculate the direct care costs component of the prospective rate for NFs beginning July 1, 1993 shall be based upon the geographic location of the county in which the facility resides as follows:
- (1) The geographic variable of the peer group is based on the following four groupings:
- (a) A metropolitan statistical area (MSA): an "MSA" is a county or a group of contiguous counties which encompasses a principal city in Ohio and as defined by the federal office of management and budget (OMB). For purposes of this rule, the MSA peer group includes the following counties: Allen, Auglaize, Carroll, Clark, Columbiana, Crawford, Delaware, Fairfield, Franklin, Fulton, Greene, Jefferson, Licking, Lucas, Madison, Mahoning, Miami, Montgomery, Pickaway, Richland, Stark, Trumbull, and Wood.
- (b) A consolidated metropolitan statistical area (CMSA): a "CMSA" is two or more contiguous MSAs which encompasses a principal city in Ohio and as defined by the federal OMB. The two CMSAs in Ohio shall be separate peer groups as follows:
- (i) For purposes of this rule, the "northeastern CMSA peer group" includes the following counties: Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit.
- (ii) For purposes of this rule, the "southwestern CMSA peer group" includes the following counties: Brown, Butler, Clermont, Hamilton, and Warren.

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- (c) Other area: "other area" is defined as an area not located in either the MSA or the CMSAs specified in paragraphs (F)(1)(a) and (F)(1)(b) of this rule.
- (2) Notwithstanding OMB Bulletin No. 03-04, issued June 6, 2003, the peer groups will remain as defined in paragraphs (F)(1)(a) to (F)(1)(c) of this rule through state fiscal year 2005. Following the release of changes to MSAs or CMSAs, as defined by the federal OMB, the peer groups will be redefined ~~on~~^{for} the following July first rate setting calculation, if the department determines practicable, based upon a statistical study that supports changing the peer groups.
- (3) Each NF will be classified into a peer group for the calendar year preceding the fiscal year in which the rate is paid. Once a classification is set, it remains in effect throughout the fiscal year in which the rate is paid.
- (4) A maximum cost per case-mix unit will be set for each peer group for the calendar year preceding the fiscal year in which the rate is paid. Once the maximum cost per case-mix unit is set, it remains in effect throughout the fiscal year in which the rate is paid.
- (5) If a new NF is established at a time other than when ODJFS rebases the payment system, ODJFS will assign that NF to a peer group for payment purposes, but will not recalculate the maximum cost per case-mix unit for that peer group.
- (G) NFs described under paragraphs (B)(2)(a)(ii), (B)(2)(b)(ii), (B)(2)(c)(ii), and (B)(2)(d)(ii) of this rule are excluded from the calculation of rates under paragraphs (C) to (E) of this rule, and are excluded from the calculation of peer group maximum costs per case-mix unit under paragraph (B) of this rule. The direct care rate for these NFs shall be calculated as follows:
- (1) For each NF in which the cost per case-mix unit has been assigned:
- (a) The facility rate for direct care costs shall be determined for each calendar quarter within a fiscal year by multiplying the assigned cost per case-mix unit by the quarterly facility average case-mix score determined under rule 5101:3-3-42 of the Administrative Code for the calendar quarter that preceded the immediately preceding calendar quarter; and
- (b) The product determined under paragraph (G)(1)(a) of this rule shall be

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adjusted by the inflation rate estimated under paragraph (D) of this rule.

- (2) For NFs or distinct-part units of NFs that are qualified providers of outlier services, the direct care rate for residents who have received prior authorization from ODJFS to receive outlier services shall be calculated in accordance with rule 5101:3-3-25 of the Administrative Code.
- (3) For the NFs described under paragraphs (B)(2)(b)(ii), (B)(2)(c)(ii), and (B)(2)(d)(ii) of this rule that participated in the medical assistance program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid, reimbursement shall be made in accordance with rule 5101:3-3-53 of the Administrative Code.

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